

LEGAL ETHICS AND PROFESSIONALISM

BRIDGE NUMBER 2

Organizing Committee:

Hon. Robert Armstrong

Hon. Stephen Goudge

Hon. Joan Lax

Trudo Lemmens

January 2005

Faculty of Law

University of Toronto

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FACULTY OF LAW
UNIVERSITY OF TORONTO

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**Legal Ethics and Professionalism Bridge
University of Toronto, Faculty of Law
February 9-12, 2004**

Organizing Committee

Justice Robert Armstrong
Justice Stephen Goudge
Justice Joan Lax
Trudo Lemmens

Themes

The bridge week is intended to explore two central themes: first, the bridge will explore the diverse professional ideals which shape advocacy, the pursuit of justice and legal practice; second, the bridge will explore the ethical challenges which confront lawyers in various practice settings and how these challenges may be resolved. While the aim of the week is not to reach particular conclusions on the topics covered, our hope is that students will be exposed to, and have opportunities to discuss, some of the central trends, tensions and controversies shaping the legal profession.

PROGRAMME

Monday, January 10 , 2005

1:30 to 2:15 **What is Professional Ethics?**

Professor Trudo Lemmens (Faculty of Law, University of Toronto)

2.15-3.15 **The Legal Profession: Past, Present, Future**

Chair: Justice Stephen Goudge (Ontario Court of Appeal)

Speakers: Justice Robert Armstrong (Ontario Court of Appeal): Past and Present of the Profession

Chief Justice Roy McMurtry (Chief Justice of Ontario): The Future Challenges of the Legal Profession

Tuesday, January 11, 2005

9:00-11:00 **Different Approaches to Legal Ethics**

Chair: Justice Stephen Goudge (Ontario Court of Appeal)

Speakers: Professor Randal N.M. Graham (Faculty of Law, University of Western Ontario)

Professor David M. Tanovich (Faculty of Law, University of Windsor)

12-2:00 **Ethics in Legal Practice:** Small Group Discussions with graduates from different type of practices: Pat Band (College of Physicians and Surgeons of Ontario), Sally P. Bryant (McCarthy-Tétreault), Andrea Caskey (Epstein Cole), Robert A. Centa (Paliare, Roland), Elizabeth J. Evans (TD Bank Financial Group), Lise Favreau (Ministry of the Attorney General, Ontario), Nikki Gersh bain (Faculty of Law, University of Toronto), Kumail Karimjee (Iler Campbell), Cornell Wright (Torys LLP)

2:00. Coffee and Cookies

2.15-3.15 Question and Answer Session Based on Small Group Discussion

Wednesday, January 12, 2004

10:00-12:00 **The Lawyer's Responsibility to Clients and Access to Justice**

Chair: Justice Robert Armstrong (Ontario Court of Appeal)
Speakers: Edward Greenspan Q.C. (Criminal Trial and Appellate Counsel,
Greenspan White)
Professor Alan Hutchinson (Osgoode Hall Law School).

1:30-4:00 **The Lawyer's Responsibility to Society and Access to Justice**

Chair: Justice Joan Lax (Superior Court of Justice)
Speakers:
Raj Anand (Weir Foulds LLP and President-Pro Bono Law Ontario)
Ruth Goba (Scott & Oleskiw)
Kimberley Murray (Aboriginal Legal Services Toronto)
M. Kate Stephenson (Weir Foulds LLP)

Thursday, January 13, 2004

Ethical Touchstones and Criminal Law

9.30-11:30 Panel
Chair: The Honourable Michel Proulx QC (Davies Ward Phillips & Vineberg)
Speakers: David Layton (Gibbons Fowler Nathanson)
Marie Henein (Henein and Associate)
Justice John McMahon (Ontario Superior Court)

12.30-2:00 Problem-Based Small Group Discussions (small group chairs: Michel Proulx, Marie Henein, David Layton, Justice John McMahon, Justice Stephen Goudge, Kent Roach, Martha Shaffer, Hamish Stewart, Trudo Lemmens)

2:10-2:40 Response: Hon. Michel Proulx QC and David Layton

2.40 : **Wrap up**

MATERIALS

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The Nature of the Legal Profession and Approaches to Legal Ethics

- Harry W. Arthurs, "Lawyering in Canada in the 21st Century" (1996) 15 Windsor Yearbook of Access to Justice 202; pp. 1-12
- Justice Rosalie Abella, "Professionalism Revisited" (Opening Address, Benchers' Retreat, October 14, 1999); pp. 13-23
- Roger Cramton, "The Last Class: Living a Good Life as a Lawyer" (2000) Cornell Law Forum; pp. 24-28
- Deborah Rhode, "The Advocate's Role in the Adversary System" in *In The Interests of Justice: Reforming the Legal Profession* (Oxford: Oxford University Press, 2000); pp. 29-46
- Robert Gordon, "A Profession in Paralysis" (2002) 54 Stanford Law Review 1427; pp. 47-58
- Adam Dodek, "Canadian Legal Ethics: A Subject in Search of Scholarship" (2000) 50 University of Toronto Law Journal 115; pp. 59-68
- Alan Hutchinson, "An Alternative Vision: A Contextual and Pragmatic Approach" in *Legal Ethics and Professional Responsibility* (Toronto: Irwin, 1999); pp. 69-79
- Randal N.M. Graham, "Morality vs. Market: An Economic Account of Legal Ethics" pp. 80-100

Ethical Challenges in a Diverse Profession

- Deborah MacNair, "The Role of the Federal Public Sector Lawyer: From Polyester to Silk" (2001) 50 UNB LJ 125; pp. 101-121
- Gavin MacKenzie, "The Valentine's Card in the Operating Room: Codes of Ethics and the Failing Ideals of the Legal Profession" (1996) 34 Alberta L. Rev.; pp. 122-129
- Geoffrey C. Hazard Jr., "Is There an American 'Legal Profession'" (2002) 54 Stanford L. Rev. 1463; pp. 130-135

Gavin MacKenzie, *Lawyers and Ethics* (Toronto: Carswell, 1998), ch. 7;
.....pp. 136-140

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R. v. Neil 2002 SCC 70; pp. 141-154

Gavin MacKenzie, *Lawyers and Ethics* (Toronto: Carswell, 1998), ch. 4;
.....pp. 155-166

Edward L. Greenspan and George Jonas, *Greenspan: The Case for the Defence* (Toronto: MacMillan), ch. 15; pp. 167-172

Alan Dershowitz, "Defending the Offensive: Judging Who Deserves Representation is Dangerous" (Washington Post, 1997); pp. 173-175

Ronald Goldfarb, "Guilt by Association: Lawyers Should be Judged by the Clients they Keep" (Washington Post, 1997); pp. 176-177

Lawyers Responsibility to Society

Justice J.C. Major, "Lawyer's Obligation to Provide Legal Services" (1995) 32 *Alberta L. Rev.*; pp. 178-183

Tanina Rostain, "Colloquium: What Does it Mean to Practice Law "In the Interests of Justice" in the Twenty-First Century? Lawyering and the Possibility of Integrity" (2002) 70 *Fordham L. Rev.* 1811; pp. 184-195

Reed Elizabeth Loder, "Tending the Generous Heart: Mandatory Pro Bono and Moral Development" (2001) 14 *Georgetown J. of Legal Ethics* 459;
.....pp. 196-221

Rob Atkinson, "Historical Perspectives on Pro Bono Lawyering: A Social-Democratic Critique of Pro Bono Publico Representation of the Poor: The Good as the Enemy of the Best" (2001) 9 *American University J. of Gender, Social Policy & Law* 129;
.....pp. 222-260

Sharon Dolovich, Colloquium: "What Does it Mean to Practice Law "In the Interests of Justice" in the Twenty-First Century? Lawyering and the Possibility of Integrity" (2002) 70 *Fordham L. Rev.* 1629; pp. 261-314

Ethical Touchstones & Criminal Law

Problems Criminal Law;..... pp. 315-317

Kent Roach, “Smoking Guns: Beyond the Murray Case” (2000) 43 C.L.Q. 409;
.....pp. 318-319

Justice Michel Proulx and David Layton, *Ethics and Canadian Criminal Law* (Toronto: Irwin, 2001), ch. 9; pp. 320-344